



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2013-0707; FRL-9910-54-Region 10]

#### Revision to the Washington State Implementation Plan; Update to the Solid Fuel Burning Devices Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a State Implementation Plan (SIP) revision submitted by the Washington State Department of Ecology (Ecology) on January 30, 2014. The SIP submission contains revisions to Washington's solid fuel burning device rules to control fine particulate matter (PM<sub>2.5</sub>) from residential wood combustion. The updated regulations reflect Washington State statutory changes made in 2012, setting revised PM<sub>2.5</sub> trigger levels for impaired air quality burn bans and setting criteria for prohibiting solid fuel burning devices that are not certified. The submission also contains updates to the regulations to improve the clarity of the language.

**EFFECTIVE DATE:** This final rule is effective **[insert date 30 days after publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2013-0707. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the

Air Programs Unit, Office of Air Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at (206) 553-0256, [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we,” “us,” or “our” are used, it is intended to refer to the EPA.

## **Table of Contents**

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### **I. Background Information**

An explanation of the Clean Air Act requirements and implementing regulations that are met by this SIP submittal, a detailed explanation of the revisions, and the EPA’s reasons for approving it were provided in the notice of proposed rulemaking published on March 4, 2014, and will not be restated here (79 FR 12136). On March 25, 2014, the EPA received one comment via the [www.regulations.gov](http://www.regulations.gov) website.

### **II. Response to Comments**

*Comment:* “Wood stoves are now designed to re-burn the smoke and get 98 percent of particle matter out of the air. By more complete and efficient burning, the heat derived from wood is maximized and the particle matter is minimized. In a metro city, an inefficient stove or fireplace

will cause neighbors to get upset at the smoke from using such a unit. If a smoke reburning unit is used, the smoke is considerably less and with less particles there is less irritation and problems for neighbors. I suggest that any reburning stove or fireplace be exempted from any such rules.”

*Response:* Under section 110 of the Clean Air Act states are responsible for developing regulations and control measures to address air pollution for incorporation into the SIP. The EPA’s role is to evaluate these state choices to determine if the revisions meet the requirements of the Clean Air Act. To the extent that the commenter wants to influence these state choices, the comments are best submitted during the state public comment period rather than as part of the EPA’s approval or disapproval process. The EPA has determined that Washington’s January 30, 2014 submittal meets all Clean Air Act requirements for approval. The EPA provided a copy of the comment to Ecology for consideration during future state rulemaking, but is otherwise taking no further action on the comment.

### **III. Final Action**

The EPA is approving Washington’s SIP revision submitted on January 30, 2014. Specifically, the EPA is approving and incorporating by reference into the SIP the rules shown in the Table below. We have made the determination that this action is consistent with section 110 of the Clean Air Act.

#### **APPROVED RULES**

Agency	Citation (WAC)	Title	State effective date	Submitted
Ecology	173-433-010	Purpose	02/23/14	01/30/14
Ecology	173-433-020	Applicability	02/23/14	01/30/14
Ecology	173-433-030	Definitions	02/23/14	01/30/14
Ecology	173-433-100	Emission Performance Standards	02/23/14	01/30/14
Ecology	173-433-110	Opacity Standards	02/23/14	01/30/14

Ecology	173-433-120	Prohibited Fuel Types	02/23/14	01/30/14
Ecology	173-433-140	Criteria for Impaired Air Quality Burn Bans	02/23/14	01/30/14
Ecology	173-433-150	Restrictions on the Operation of Solid Fuel Burning Devices	02/23/14	01/30/14
Ecology	173-433-155	Criteria for Prohibiting the Use of Solid Fuel Burning Devices that Are Not Certified	02/23/14	01/30/14

#### **IV. Statutory and Executive Orders Review**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated September 3, 2013, and to all other tribes located in Washington State in letters dated December 24, 2013. The EPA did not receive a request for consultation.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Incorporation by reference, and Reporting and recordkeeping requirements.

Dated: April 15, 2014.

Dennis J. McLerran  
Regional Administrator  
Region 10.

40 CFR part 52 is amended as follows:

**PART 52 - [AMENDED]**

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart WW - Washington**

2. Section 52.2470 is amended in paragraph (c) Table 1 – Washington Department of Ecology Regulations by:

- a. Revising the heading “Washington Administrative Code, Chapter 173-433 – Solid Fuel Burning Device Standards” to read “Washington Administrative Code, Chapter 173-433 – Solid Fuel Burning Devices”;
- b. Revising entries 173–433–010 through 173–433–120;
- c. Revising entries 173–433–140 and 173–433–150;
- d. Adding in numerical order entry 173–433–155.

The revisions and additions read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

TABLE 1 – WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * * * *				
<b>Washington Administrative Code, Chapter 173-433 – Solid Fuel Burning Devices</b>				
173-433-010	Purpose	02/23/14	[Insert <u>Federal Register</u>	

			publication date] [Insert page number where the document begins]	
173-433-020	Applicability	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-030	Definitions	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-100	Emission Performance Standards	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-110	Opacity Standards	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-120	Prohibited Fuel Types	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
* * * * *				
173-433-140	Criteria for Impaired Air Quality Burn Bans	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-150	Restrictions on the Operation of Solid Fuel Burning Devices	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document begins]	
173-433-155	Criteria for Prohibiting the Use of Solid Fuel Burning Devices	02/23/14	[Insert <u>Federal Register</u> publication date] [Insert page number where the document	



	that Are Not Certified		begins]				
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05/09/2014]